Remarks

The May 16, 2008 Office Action rejects claims 1-50 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,674,044 ("Kalmus") in view of U.S. Pat. App. No. 2004/0059666 ("Waelbroeck"). Applicant requests reconsideration and withdrawal of this rejection for the reasons presented below.

Regarding Kalmus, Applicant continues to assert that Kalmus does not disclose orders with a reserve quantity for the reasons given in the Response to the August 23, 2007 Office Action.

Regarding Waelbroeck, the Examiner relies on paragraph [0424] of the Waelbroeck application for the disclosure of a random refresh feature. However, paragraph [0424] is not entitled to a filing date earlier than the filing date of the present application (April 20, 2001) because the material in paragraph [0424] is not disclosed in the Walebroeck parent applications 09/870,845, filed May 31, 2001, 09/750,768, filed December 29, 2000, or 09/585,049, filed June 1, 2000.

Therefore, Applicant submits that at least paragraph [00424] in Waelbroeck 2004/005966 does not qualify as prior art under 35 U.S.C. 102(e) with respect to the present application.

Notwithstanding the above, Applicant also submits that Waelbroeck fails to disclose the limitation in all of the independent claims relating to a reserve price change.

The independent claims express this in different ways. Claim 1, which is selected for purposes of discussion, recites:

> receiving from a given user an order comprising terms for a total
> desired trade of an interest, said terms comprising an identification
> of said interest, an initial price, an initial quantity, and a reserve
> quantity, said total desired trade being for a total desired quantity
> of the interest equal to a sum of said initial quantity and said
> reserve quantity;
>
> * * *

12

      associating with said total desired trade a reserve price change;

<center>* * *</center>

      upon acceptance of said first proposed trade for all or part of said initial quantity, disclosing, based on the order received from the given user, terms of a second proposed trade of said interest to others via the at least one network, said terms for a second proposed trade comprising an identification of said interest, a second price, and a second quantity, said second price being equal to said initial price changed by said reserve price change, and said second quantity comprising at least a portion of said reserve quantity;

In the method of claim 1, a received order for a total desired trade comprises terms that include an initial price, an initial quantity, and a reserve quantity (where the total desired quantity of the total desired trade is the sum of the initial and reserve quantities) and a reserve price change associated with the total desired trade. The initial price and the initial quantity, but not the reserve quantity, are disclosed to others as terms of a first proposed trade. Upon acceptance of the first proposed trade for all or part of the initial quantity, terms of a second proposed trade are disclosed which include a second quantity and a second price, where the second price is equal to the initial price changed by the reserve price change, and the second quantity includes at least a portion of the reserve quantity.

As explained at the interview, the prior art of record does not disclose a method in which terms of a desired trade include an initial price, an initial quantity, and a reserve quantity; a reserve price change is associated with the desired trade; and, upon acceptance of the desired trade for all or part of said initial quantity, a second proposed trade is disclosed which includes a second price and a second quantity, said second price being equal to said initial price changed by said reserve price change, and said second quantity comprising at least a portion of said reserve quantity.

Even if Waelbroeck paragraph [0424] were prior art to the present application, this

<center>13</center>

paragraph and the remainder of Waelbroeck do not disclose associating with a total desired trade a reserve price change as claimed in claim 1.

Waelbroeck in paragraph [0424] discloses that a working order option includes an order quantity that is greater than the minimum block quantity. The additional size is dispatched to be worked by an automated process that automatically places small slices on the regular market, in the manner known in the art as "random refresh" orders. As described by Waelbroeck, a random refresh algorithm places a small quantity of shares at the best price on the market, and whenever said small quantity is exhausted, generates a new small order to be placed at the new best price, where the refreshed quantity is chosen at random.

The random refresh algorithm described by Waelbroeck, while including placing an order at a new market price, does not include at least the limitation of claim 1 of associating with a total desired trade a reserve price change. Therefore, it is submitted that claim 1 is allowable over Waelbroeck and the prior art of record.

Based on the reasoning similar to that above, it is submitted that the other independent claims (claims 16, 18, 33, 34, 39, 41 and 46) are also allowable over Waelbroeck and the prior art of record. As for the dependent claims, since each is dependent on an independent claim discussed above, it is submitted that they are allowable as well.

Since each dependent claim is also deemed to define an additional aspect of the invention, the individual reconsideration of the patentability of each on its own merits is respectfully requested even though, for reasons of brevity, such patentability is not separately argued herein. However, Applicant reserves the right to rely on and argue patentability of the subject matter of the dependent claims in this or another proceeding.

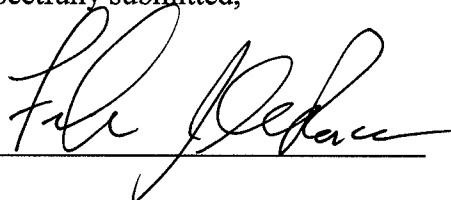Similarly, because Applicant maintains that all claims are allowable for at least the

reasons presented hereinabove, in the interests of brevity, this response does not comment on each and every comment made by the Examiner in the May 16, 2008 Office Action. This should not be taken as acquiescence of the substance of those comments, and Applicant reserves the right to address such comments.

Closing

In view of the above, it is submitted that all pending claims are allowable, and that the application is in condition for allowance. Applicant respectfully requests early reconsideration and allowance of the application with claims 1-50.

The Examiner is respectfully invited to contact Applicant's Representative by telephone on any issue which the Examiner believes is suitable for possible resolution or clarification by telephone.

Respectfully submitted,

Dated: October 16, 2008

Frank J. DeRosa (Reg. No. 26,543)
FROMMER LAWRENCE & HAUG LLP
Customer No. 20999   Attorneys for Applicants
745 Fifth Avenue
New York, NY 10151

212-588-0800